IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.04.2006

CORAM

THE HONOURABLE MR. JUSTICE N. PAUL VASANTHAKUMAR

W.P.No.3570 of 2006 & W.V.M.P.No.12013/2006

R. Duraikannu .. Petitioner

Vs

The Director of Sericulture,
Salem. .. Respondent

Writ petition came to be numbered by way of transfer of O.A. No.2327/1999 from the file of the Tamil Nadu Administrative Tribunal to call for the records relating to the order passed by the respondent in Na.Ka.No.22297/A6/96 dated 18.12.1998 and set aside the same and direct the respondent to disburse the salary to the petitioner from 26.04.1994 the date of order in O.A.No.1448/91 to the date of posting given on 29.01.1996 with interest as per Government Order ie., 12%.

For Petitioner : Mr. S. Mani
For Respondent : Mr. Suresh Viswanath, GA

ORDER

The prayer in this writ petition is to issue a writ of mandamus to quash the order dated 18.12.1998 and for a direction to the respondent to pay salary to the petitioner from 26.04.1994 till 21.09.1996 with interest at the rate of 12%.

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2. The facts necessary for the disposal of the writ petition are that the petitioner was terminated from service by the order dated 04.12.1987. The said order of termination was challenged before the Tribunal in O.A.No.1448/1991 and the same was allowed on 26.04.94, directing the respondents to reinstate the petitioner in service as Practical Sericulturist within a period of two months from the date of receipt of a copy of the order, but without backwages and to count the earlier period of service after condoning the breaks for the purpose of pension.

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3. According to the petitioner, the said order having not been implemented, he filed contempt application before the Tribunal and thereafter, only on 29.01.1996, the petitioner was given reinstatement and no salary for the period from 26.04.94 to 29.01.96 was given. The petitioner after rejoining in the service, claimed the salary for the period from 26.04.94 to 29.01.96 and the same was rejected by the respondent by stating that the said period will be taken for pension purpose only and no salary is payable.

4. The learned counsel submits that the Tribunal in the order dated 06.04.94, directed only two months time to reinstate the petitioner and therefore, the petitioner is entitled to get salary after the expiry of twomonths, i.e., from 26.06.94 and there is no justification for not reinstating the petitioner from 26.06.94 to 29.01.96. The learned counsel also cited a Judgment of the Hon'ble Supreme Court reported in (2005) 11 SCC 513 (State of M.P. and others Versus Sanjay Kumar Sharma) wherein the Hon'ble Supreme Court held that the State should have reinstated the respondent in the Civil Appeal, and having delayed the issuance of the reinstatement order, a direction was issued to the State to pay backwages to the respondent from the date of the order of the Tribunal till the reinstatement in service.

5. In this case, the Tribunal ordered reinstatement within a period of two months from 26.04.94 and therefore, the respondent is bound to implement the order atleast from 26.06.94 and there is no explanation given by the respondent as to why the delay has occurred and no extension of time is also obtained from the Tribunal.

6. The learned counsel for the petitioner submitted that he has not pressed the interest portion of the prayer.

7. Taking note of the said submissions, the Impugned order is set aside and the writ petition is allowed with the following direction"

> "The respondent is directed to pay salary and other benefits to the petitioner from 26.06.94 to 28.01.96. The said period should also be counted for all other service benefits. The arrears of salary payable to the petitioner shall be calculated and paid to the petitioner within a period of four weeks from the date of receipt of a copy of this order."

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8. The writ petition is allowed in the above terms. No costs. Consequently, connected W.V.M.P. is closed.

ap

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To

The Director of Sericulture,
Salem.

+ 1 CC To Mr.S.Mani, Advocate, SR NO.19669.

W.P.No.3570 of 2006

JE(CO)
RVL 26.04.2006

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